



Commonwealth of Massachusetts State Ethics Commission

One Ashburton Place, Room 619, Boston, MA, 02108
phone: 617-727-0060, fax: 617-723-5851



SUFFOLK, ss.

COMMISSION ADJUDICATORY
DOCKET NO. 525

IN THE MATTER OF LEE ROBINSON

DISPOSITION AGREEMENT

This Disposition Agreement ("Agreement") is entered into between the State Ethics Commission ("Commission") and Lee Robinson ("Robinson") pursuant to §5 of the Commission's Enforcement Procedures. This Agreement constitutes a consented to final order enforceable in the Superior Court, pursuant to G.L. c. 268B, §4(j).

On March 30, 1994, the Commission initiated, pursuant to G.L. c. 268B, §4(a), a preliminary inquiry into possible violations of the conflict of interest law, G.L. c. 268A, by Robinson. The Commission has concluded its inquiry and, on April 11, 1995, found reasonable cause to believe that Robinson violated G.L. c. 268A.

The Commission and Robinson now agree to the following findings of fact and conclusions of law:

1. Robinson was, during the time relevant, a Selectman of the Town of Provincetown. As such, Robinson was a municipal employee as that term is defined in G.L. c. 268A, §1.
2. On July 23, 1990, the Selectmen voted to designate themselves as non-voting "*ex-officio*" members of town boards.
3. On April 7, 1992, Robinson submitted an application for a special permit in the name of the A&P to the Provincetown Zoning Board of Appeals ("ZBA") and the Provincetown Licensing Board, based upon his intentions to lease and operate the A&P's unused parking lot for the purpose of providing parking to summer tourists.
4. On June 4, 1992, the ZBA voted to draft a decision to grant Robinson's special permit.
5. On June 18, 1992, the ZBA considered Robinson's application at a public hearing. Robinson was asked to attend and to submit certain documentation concerning the permit. With the chairperson's consent, Robinson spoke in support of his application. After the public hearing session ended, debate among the ZBA members over the permit application continued. In response to a comment made during the debate, Robinson stated that he could speak. He stated that as a Selectman, he is an *ex-officio* member of the ZBA and could participate in its deliberations^{1/}, even those that are closed to the public. The chairperson allowed Robinson to provide input into the debate.
6. On July 3, 1992, the Provincetown Licensing Board considered Robinson's application for license to operate the parking lot. With the chairperson's consent, Robinson spoke in support of his application. After the public hearing session ended, Robinson requested to speak. He stated that as a Selectman, he is an *ex-officio* member of the Licensing Board and could participate in its deliberations, even those that are closed to the public. The chairperson denied Robinson's request to speak.
7. Robinson operated the parking lot from approximately late July of 1992 until early summer of 1993, and no longer operates or has any interest in the parking lot. During the brief period of operation, he made no profit and incurred an after-expense loss on the venture.

8. Robinson is no longer a Selectman, nor does he hold any other municipal position in Provincetown or elsewhere.

9. Section 23(b)(2) of G.L. c. 268A prohibits a municipal employee from using or attempting to use his position to obtain an unwarranted privilege of substantial value which is not properly available to similarly situated individuals.

10. The ability to speak during ZBA and Licensing Board deliberations on his own application, when others could not, was a privilege of substantial value because it could enhance Robinson's chances of obtaining the potentially valuable permit and license he was seeking. The opportunity for further advocacy was not properly available to other permit/license applicants.

11. By invoking his *ex-officio* member status in order to speak or attempt to speak during ZBA and Licensing Board deliberations on his own application where others could not, Robinson used or attempted to use his Selectman's position to obtain an unwarranted privilege of substantial value, not properly available to other similarly situated individuals, in violation of §23(b)(2).^{2/}

In view of the foregoing violations of G.L. c. 268A by Robinson, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Robinson:

that Robinson waive all rights to contest the findings of fact, conclusions of law and terms and conditions contained in this Agreement in this or any other related administrative or judicial proceedings to which the Commission is or may be a party.^{3/}

DATE: November 17, 1995

^{1/} Mr. Robinson asserts that in both instances he intended to address the procedures used in the handling of the application, which he saw as a matter of public concern.

^{2/} See footnote 1.

^{3/} The Commission is authorized to impose a fine of up to \$2,000 for each violation of G.L. c. 268A. The Commission, however, believes that no fine is appropriate here. Robinson's comments were spontaneous and of limited duration. Furthermore, Robinson is no longer a Selectman nor does he now have any financial interest in the parking lot.